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PATRICK E. DUFFY

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

MISSOULA DIVISION

Ginger Hageman,

CV-06-09-M-DWM

Plaintiff,

vs.

ORDER

Richard Gebhardt, Plains Town Attorney;
Chief Shawn Emmet, Plains Police Department;
Ernest Cahala, Plains Police Officer;
Joe Brown, County Coroner;
Laurie Sharp, Deputy Coroner; and
Robert Zimmerman, Sanders County Attorney;

Defendants.

Ginger Hageman,
Kent Wood,
Christine Wood,

CV-06-45-M-DWM

Plaintiffs,

vs.

Richard Gebhardt, Plains Town Attorney;
Chief Shawn Emmet, Plains Police Department;
Ernest Cahala, Plains Police Officer;
Joe Brown, County Coroner;
Laurie Sharp, Deputy Coroner;
Robert Zimmerman, Sanders County Attorney; and
Gene Arnold, Sanders County Sheriff;

Defendants.

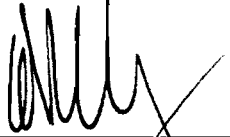
This Order addresses Judge Jeremiah C. Lynch's Findings and Recommendations from September 15, 2006. Neither party objected to the Findings and Recommendation. Because there was no objection to the Findings and Recommendation the parties have waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch correctly recommended denying Defendants' motion to dismiss. Defendants Gebhardt, Emmett, and Cahalas moved to dismiss the Complaint for failure to state a claim upon which relief can be granted pursuant to Federal Rule of Civil Procedure 12(b)(6). The Court allowed Plaintiffs to file an Amended Complaint, which rendered Defendants' motion moot.

Accordingly, IT IS HEREBY ORDERED that Judge Lynch's Findings and Recommendations (dkt #52 in CV 06-09) are adopted in full; and

IT IS FURTHER ORDERED that Defendants' motion to dismiss (dkt #31 in CV 06-45) is DENIED as moot.

DATED this 2nd day of October, 2006.



Donald W. Molloy, Chief Judge
United States District Court

